

# **EXHIBIT 3**

**From:** [Taylor Smith](#)  
**Sent:** Friday, January 6, 2023 12:57 PM  
**To:** [Mitchell Roth](#); [Joe Bowser](#); [Taylor Smith](#)  
**Cc:** [Patrick Peluso](#)  
**Subject:** Re: Motions in Limine  
**Attachments:** Records Custodian Declaration - Ruth Smith v. SunPath 4891-0151-8663  
v.1.pdf

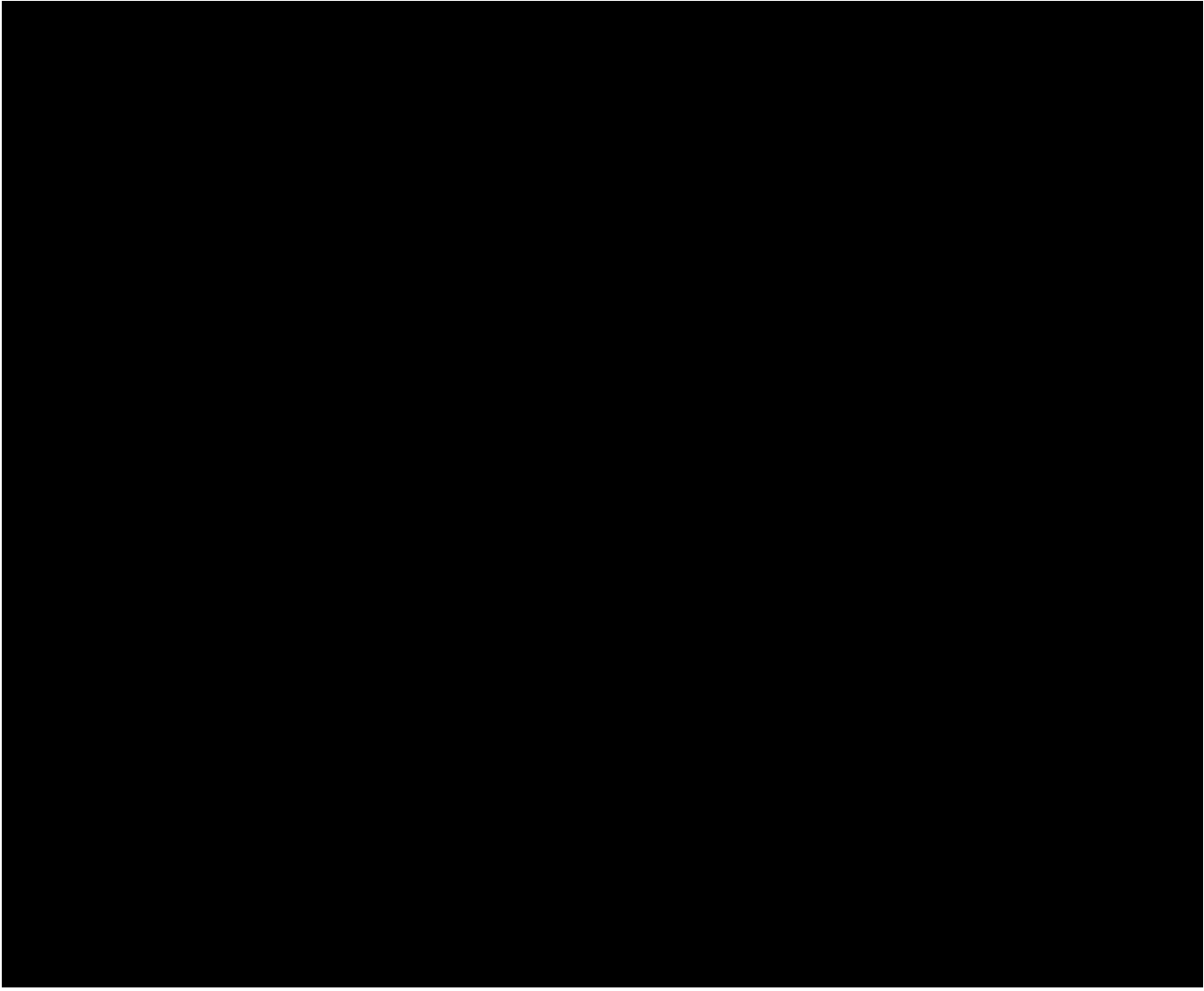
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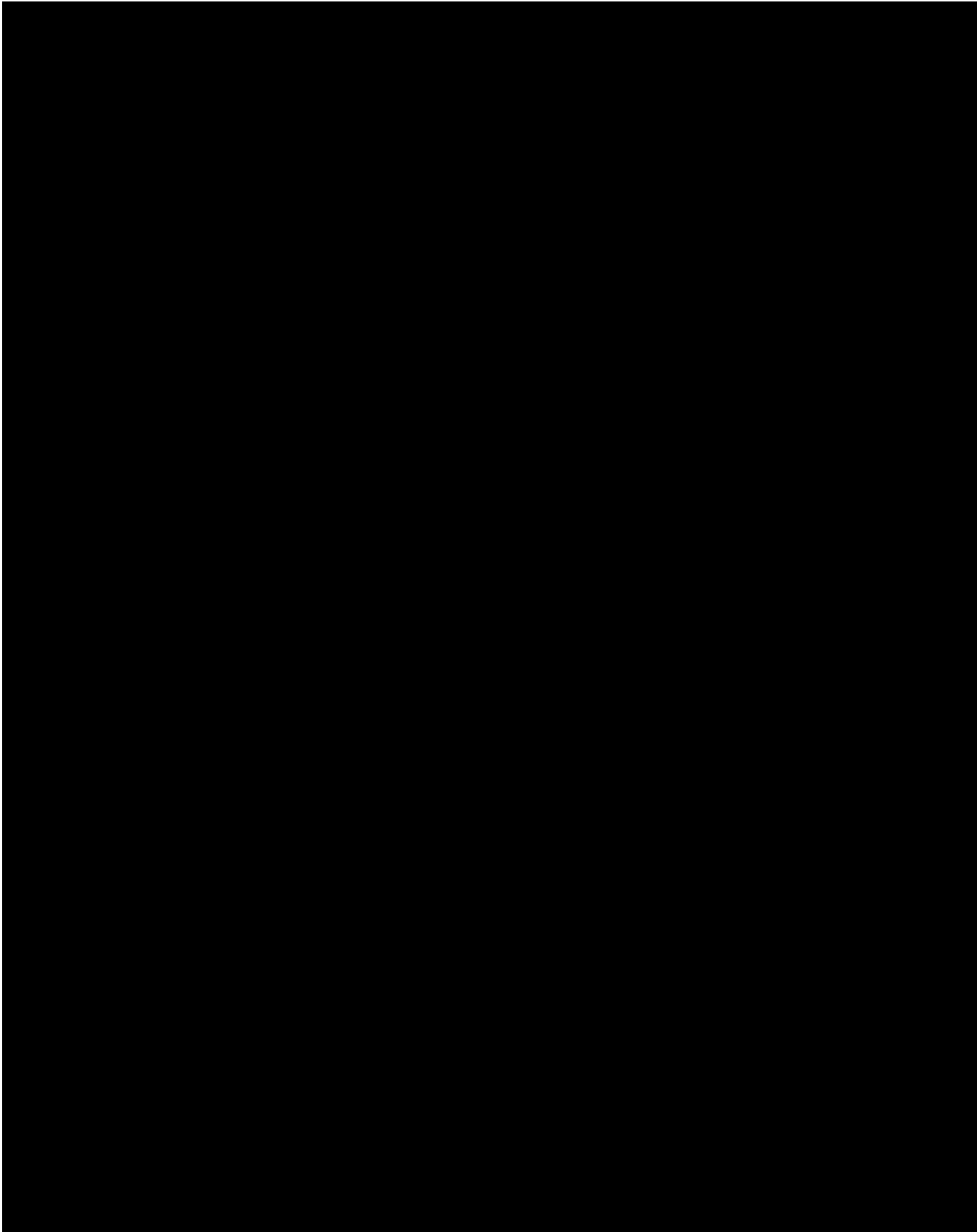
**Follow Up Flag:** Copied to Worldox (Client Files\2834\017\01494675.MSG)

Counsel:

Attached is the declaration provided to us by Five9 this morning.

Thanks,  
Taylor







**Declaration of Custodian of Records**

I, the undersigned, do hereby declare:

1. My name is Melinda Bas.
2. I am a United States citizen and over eighteen (18) years of age. I am acting on behalf of the custodian of records of the business named in the subpoena, or I am otherwise qualified as a result of my position with the business named in the subpoena to make this declaration.
3. I am in receipt of the subpoena for Civil Action No. 1:22-cv-00081-LMB-WEF served on Five9 Communications by Woodrow & Peluso, LLC on November 10, 2022. In response to the subpoena, Five9 produced records in its possession relating to Chukran Management Group, LLC d/b/a American Protection Corp.
4. Specifically, Five9 produced a single .csv file containing telephone numbers provisioned for use by American Protection Bates-Stamped Five9\_AmericanProtection\_000001.
5. Additionally, Five9 produced a .zip file Bates-Stamped Five9\_AmericanProtection\_000002 containing forty-five (45) separate .csv files for the time period between May 2018 and December 2021. The Five9 records are labeled as follows:
  - AmericanProtectionCorporation2-20180501-20180531.csv
  - AmericanProtectionCorporation2-20180601-20180630.csv
  - AmericanProtectionCorporation2-20180701-20180731.csv
  - AmericanProtectionCorporation2-20180801-20180831.csv
  - AmericanProtectionCorporation2-20180901-20180930.csv
  - AmericanProtectionCorporation2-20181001-20181031.csv
  - AmericanProtectionCorporation2-20181101-20181130.csv
  - AmericanProtectionCorporation2-20181201-20181231.csv
  - AmericanProtectionCorporation2-20190101-20190131.csv
  - AmericanProtectionCorporation2-20190201-20190228.csv
  - AmericanProtectionCorporation2-20190301-20190331.csv
  - AmericanProtectionCorporation2-20190401-20190430.csv
  - AmericanProtectionCorporation2-20190501-20190531.csv

- AmericanProtectionCorporation2-20190601-20190630.csv
- AmericanProtectionCorporation2-20190701-20190731.csv
- AmericanProtectionCorporation2-20190801-20190831.csv
- AmericanProtectionCorporation2-20190901-20190930.csv
- AmericanProtectionCorporation2-20191001-20191031.csv
- AmericanProtectionCorporation2-20191101-20191130.csv
- AmericanProtectionCorporation2-20191201-20191231.csv
- AmericanProtectionCorporation2-20200101-20200131.csv
- AmericanProtectionCorporation2-20200201-20200229.csv
- AmericanProtectionCorporation2-20200301-20200331.csv
- AmericanProtectionCorporation2-20200401-20200430.csv
- AmericanProtectionCorporation2-20200501-20200531.csv
- AmericanProtectionCorporation2-20200601-20200630.csv
- AmericanProtectionCorporation2-20200701-20200731.csv
- AmericanProtectionCorporation2-20200801-20200831.csv
- AmericanProtectionCorporation2-20200901-20200930.csv
- AmericanProtectionCorporation2-20201001-20201031.csv
- AmericanProtectionCorporation2-20201101-20201130.csv
- AmericanProtectionCorporation2-20201201-20201231.csv
- AmericanProtectionCorporation2-20210101-20210131.csv
- AmericanProtectionCorporation2-20210201-20210228.csv
- AmericanProtectionCorporation2-20210301-20210331.csv
- AmericanProtectionCorporation2-20210401-20210430.csv
- AmericanProtectionCorporation2-20210501-20210531.csv
- AmericanProtectionCorporation2-20210601-20210630.csv

- AmericanProtectionCorporation2-20210701-20210731.csv
- AmericanProtectionCorporation2-20210801-20210831.csv
- AmericanProtectionCorporation2-20210901-20210930.csv
- AmericanProtectionCorporation2-20211001-20211031.csv
- AmericanProtectionCorporation2-20211101-20211130.csv
- AmericanProtectionCorporation2-20211201-20211231\_part\_1.csv
- AmericanProtectionCorporation2-20211201-20211231\_part\_2.csv

I hereby certify that the records provided to Woodrow & Peluso, LLC:

- Were made at or near the time of the occurrence of the matters set forth in the records by or from information transmitted by a person with knowledge of those matters;
- Were kept in the course of a regularly conducted business activity; and
- Were made by the regularly conducted activity as a regular practice.

I DECLARE under the penalty for perjury that the foregoing is true and correct.

Executed on January 5, 2023

1/5/2023 | 15:54 PST

DocuSigned by:  
*Melinda E. Bas*  
D3931B7E118A429...

Melinda Bas, VP of Compliance and Privacy

Five9, Inc.  
3001 Bishop Drive,  
Suite 350  
San Ramon, CA 94583